

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISIONDOUG HARRIS and DIANA
HARRIS

VS.

DEVON ENERGY PRODUCTION
COMPANY, L.P.§
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§
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§Case No. 4:10cv708
(Judge Schneider/Judge Mazzant)**REPORT AND RECOMMENDATION**
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is Defendant's Motion for Summary Judgment (Dkt. #36). The Court finds that the motion for summary judgment is premature. No discovery has occurred in this case, and Plaintiffs should be given an opportunity to conduct discovery before consideration of the motion.

It is recommended that Defendant's Motion for Summary Judgment (Dkt. #36) should be DENIED without prejudice to refiling sixty days from the adoption of this recommendation.

Within fourteen (14) days after service of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C. § 636(b)(1)(c).

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 19th day of July, 2011.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE